

## Maternity leave policy and procedure

Registered Charity No: 1011780

### Introduction

All pregnant Employees are entitled to reasonable time off to attend antenatal appointments and to a period of maternity leave. The maternity leave and benefits available will depend on the length of service of the individual.

### Policy

#### Maternity leave

All pregnant Employees are entitled to up to one year's maternity leave (26 weeks OML and 26 weeks AML – see below) during which they continue to receive all contractual benefits except salary/wages. It is up to the Employee to decide how much leave to take but a minimum of two weeks' leave must be taken. All parental rights to shared leave are agreed.

Ordinary Maternity Leave (OML) – The first 26 weeks of the maternity leave period where contracts of employment continue.

Additional Maternity Leave (AML) – The second 26 weeks of the maternity leave period that follows OML (there must be no gap).

#### Maternity pay

all entitlements quoted here are on the basis of a full time employee working 36 hours net over a five day working week. Entitlements will be pro rated for those working alternate hours/working patterns

#### Statutory entitlements

Employees who have been continuously employed for less than 26 weeks into the qualifying week are not entitled to Statutory Maternity Pay (SMP). Employees may be eligible to claim up to 39 weeks Maternity Allowance (MA) instead. This is paid directly by Jobcentre Plus offices. If Employees are not eligible for MA, they may be eligible to claim income support or other benefits. Please see the DWP site for further information, [www.dwp.gov.uk](http://www.dwp.gov.uk).

Employees employed continuously for 26 weeks into the qualifying week are entitled to SMP. SMP is payable for a total of 39 weeks - however please note ACOT Enhanced Maternity Pay detailed below.

## **Contractual entitlements - ACOT Enhanced Maternity Pay**

ACOT offers an enhancement to the statutory minimum entitlements for pregnant Employees who meet the SMP qualifying criteria. These Employees will be eligible for Enhanced Maternity Pay (EMP). This is 26 weeks on full pay (SMP topped up to normal salary) followed by 13 weeks standard rate SMP. Any statutory or contractual maternity pay is reckonable for pension contributions.

## **Childcare Vouchers**

Employees participating in the Childcare Voucher scheme prior to starting maternity leave, and who wish to carry on doing so, will continue to receive this benefit throughout their leave.

For Employees in receipt of Enhanced Maternity pay, the existing salary sacrifice arrangements will continue to apply during the period of OML, while they are in receipt of their full salary. During any period of AML these Employees will continue to receive the vouchers as a benefit. Statutory Maternity Pay will not be reduced to pay for the Vouchers (i.e. the cost of the Vouchers will be met by the ACOT).

Employees who are not eligible for EMP, because they have been continuously employed for less than 26 weeks into the qualifying week (i.e. those who do not meet the SMP qualifying criteria), but who are in receipt of Childcare Vouchers prior to starting maternity leave and wish to continue the arrangement, will continue to receive them throughout any period of OML and/or AML. The cost of this will be met by the ACOT.

## **Maternity leave start date**

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The earliest that Maternity Leave can start is from the 11<sup>th</sup> week before the baby is due.

The latest that Maternity Leave can start is the day following the birth - if this is the date specified for the beginning of Maternity Leave.

Employees may vary the start date of their planned maternity leave period so long as 28 days notice is given.

See paragraph 2.6 for details on how sick leave preceding maternity leave might affect the start date of maternity leave.

## **Antenatal appointments**

All pregnant Employees, regardless of their length of service, are entitled to reasonable paid time off to keep appointments for ante-natal care made on the advice of a registered medical practitioner, midwife or health visitor.

Such appointments can include not just medical examinations but also, for example, relaxation and parent-craft classes.

Except in the case of a first appointment, Employees must be prepared to show on request from their Staff Manager, an appointment card or some other document from a registered medical practitioner, midwife or health visitor confirming the pregnancy and showing that an appointment has been made.

## **Health and safety**

Employers are required to protect the health and safety at work of all Employees and others, including new and expectant mothers, by carrying out a risk assessment. On notification of your pregnancy, HR will contact the ACOT Health and Safety Officer to instigate the risk assessment.

### **Sick leave during pregnancy/maternity leave**

If an illness is pregnancy related, the maternity leave period starts automatically on the first day of absence following the beginning of the fourth week before the EWC.

~~If an Employee is entitled to receive contractual sick pay, the illness must be certified by a registered medical practitioner, midwife or health visitor, and must be a pregnancy related illness that begins before the fourth week before the EWC, the maternity leave period will start automatically four weeks before the EWC.~~  
If an Employee has an ongoing pregnancy related illness that begins before the fourth week before the EWC, the maternity leave period will start automatically four weeks before the EWC. Entitlements will be pro rated for those working alternate hours/working patterns.

If the illness is pregnancy related and occurs before the last four weeks before the EWC and the Employee is able to return to work before the fourth week before the EWC, the absence will be treated in line with the usual sickness absence procedures that would apply to the Employee.

Absences during pregnancy that are as a result of illness due to pregnancy will not be counted towards an individual entitlement to contractual sick pay or for the purpose of inefficiency procedures. However, absences for pregnancy related illnesses which occur once the individual's statutory maternity leave has ended, or on an individual's return to work, will be counted for these purposes.

If the Employee becomes ill while on AML they will have no entitlement to ACOT sick pay, but may be able to claim Statutory Sick Pay (SSP). Annual leave\*

During maternity leave, whether paid or unpaid OML or AML, Employees will accrue an entitlement to annual leave, at the contractual rate. Employees will also accrue those bank holidays and privilege days that fall within that period.

Employees may request to take their accrued annual leave, bank holidays and privilege days (for the OML and AML period) before they start their maternity leave period. In this case there is no need to return to work between annual and maternity leave: they can run together in one unbroken block.

Alternatively, Employees may take leave accrued (during their OML and/or AML) when they return to work following their maternity leave period. Normal leave rules will apply and carryover from one leave year to the next will be capped at 10 days\*. Employees may apply to 'bank' up to five days\* (so long as 'banking' rules are adhered to - no more than 30 days may be added to your annual leave bank over a six year period).

Employees who are prevented from taking planned annual leave immediately prior to the commencement of their maternity leave because the actual date of childbirth was earlier than the start date of maternity leave may be eligible for a compensatory payment when they return from maternity leave. Please see the Annual Leave Policy and Procedure for further details.

Any annual leave taken that directly follows OML or AML will be paid retrospectively once an Employee has physically returned to ACOT, or has left ACOT, in which case any holiday pay

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### **Stillbirth or miscarriage**

If an Employee suffers a miscarriage of their baby earlier than the 25<sup>th</sup> week of their pregnancy, they will not qualify for any maternity leave or maternity pay. If they take a period of sickness absence from work, they will be paid ACOT sick pay according to the ACOT rules on sickness absence and not maternity pay.

If an Employee has a stillbirth from the 25<sup>th</sup> week of pregnancy onwards, they will be eligible for maternity leave in the usual way.

## **Birth of a living child** (before the 25<sup>th</sup> week of pregnancy)

If an Employee gives birth prematurely to a living child, even in cases where their baby later dies, they will be entitled to maternity leave in the usual way.

### Keeping in Touch Scheme (KITS)

Whilst on maternity leave Employees will be included in the ACOT KITS scheme. The purpose of KITS is to keep Employees up to date with developments in the ACOT. Employees will therefore receive copies of Fair Comment, Group/Area Newsletters, Office Notices and will be kept up to date with advertised job opportunities within the ACOT. Your Staff Manager or a colleague from your work area, will keep you informed of developments within the ACOT. Employees are also requested to keep in contact with their manager during the period of maternity leave so that they can be kept up to date with work and organisational developments.

Employees may also undertake up to ten 'Keeping In-Touch Days' during their maternity leave by agreement with Work/Staff Managers. KIT days are to try and help make it easier for Employees and ACOT when an Employee returns to work - a KIT day could include attendance at an Office Event or a training course. There is no obligation to undertake KIT days.

Where an Employee is either in receipt of SMP or on 'no-pay' on KIT day(s), salary will be made up to the daily rate (based on salary payable immediately preceding maternity leave).

### **Flexible working**

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If Employees wish to continue working after the birth of their child but would find it difficult to do so on a full time basis, the ACOT will consider any written applications made to vary their working pattern by working part-time, job sharing or home-working. Employees should discuss all options with their Manager and HR Adviser to see whether their wishes can be met. All requests for flexible working will be treated as sympathetically as possible. However, the ACOT is not obliged to accommodate all requests.

ACOT Employees with 26 weeks service with the ACOT and who have parental responsibilities for a child under six, or a disabled child aged under 18, have a statutory right to apply for flexible working arrangements under the Employment Rights Act 1996 (as amended by the Employment Act 2002) and the ACOT has a duty to consider these requests seriously.

## **Return to work following maternity leave**

Employees are requested to keep in contact with the Chief Officer during the period of maternity leave so that they can be kept up to date with work and organisational developments. In particular, Employees should contact the Chief Officer a month before the end of their maternity leave period to discuss arrangements for their return to work.

It is assumed that an Employee will take their full maternity leave entitlement (one year) and then return to work. Employees do not need to give ACOT notice of intention to return where they are taking their full entitlement and plan to return on the agreed date.

Employees who intend to return to work before the end of their maternity leave must give at least eight weeks' notice in writing to both the Chief Officer and HR. If Employees do not comply with this requirement ACOT may not be able to accommodate Employees back at work until eight weeks' notice has been given or the maternity leave period has ended (whichever is earlier).

Employees who resume work after OML are entitled to return to work to the same job on the same terms and conditions of employment as if they had not been absent, unless a redundancy situation has arisen.

Employees who return to work after AML are normally entitled to return to work to the same job on the same terms and conditions as if they had not been absent from work. However, if a redundancy situation has arisen or there is some other reason why it is not practicable for an Employee to return to the same post they would be offered a similar post on terms and conditions which are no less favourable than their original

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Employees will be offered any suitable additional training necessary on return to work.

If an Employee is unable to return to work when they have used their entitlement to maternity leave because their baby is unwell and needs them to be at home, we may waive repayment of maternity pay if medical evidence is provided.

## **Resignation following maternity leave**

Those Employees who are entitled to Enhanced Maternity Pay and who decide not to return to work at the end of EMP are required to give proper notice. Those who fail to return to the Civil Service at the end of their maternity leave period (52 weeks) will be required to repay the difference between the enhanced rate of maternity pay that they have received and the

minimum level of maternity pay, SMP, to which they would otherwise have been entitled. To avoid repayment, we would otherwise require an Employee to work the notice period stated in their contract of employment.

Repayment will be waived if the Employee provides medical evidence that they will be unable to return within 52 weeks after confinement because their child requires continuous attention at home. In this situation, medical evidence should be sent to HR as soon as possible within the 52-week period.

If the Employee chooses to resign from the Civil Service, they will receive payment in lieu of any annual leave not taken.

If an Employee resigns because they do not intend to return to work after the birth of their baby, but later wants to return because of a change in circumstances, we do not have to re-employ them.

## **Grievances**

If an Employee is unhappy with any aspect of their treatment whilst pregnant, or on maternity leave, or if any dispute arises concerning any matter in this policy, they are entitled to bring a formal grievance, in line with the ACOT Grievance Procedure.

## **Procedure**

### Notification

Employees must inform the Chief Officer no later than the end of the 15<sup>th</sup> week before the EWC, confirming they are on the basis of a full time employee working 36 hours net over a five day working week. Entitlements will be pro rated for those working alternate hours/working patterns

- f* they are pregnant
- f* the date of their EWC – medical proof in the form of a maternity certificate (form MATB1 available from the Employee's doctor or midwife after the 26<sup>th</sup> week of pregnancy) will be required, and

*f* The date on which they intend to start Maternity Leave - this must be a Sunday (SMP is only payable commencing on a Sunday).

Although Employees are not obliged to let the Chief Officer know that they are pregnant until the end of the 15<sup>th</sup> week before their EWC, it is in their interest to do so as soon as possible (before the MATB1 is available if possible) so that HR can help them plan their maternity leave period. It also provides ample opportunity to notify the ACOT Health and Safety Officer who will arrange for a work place assessment to be carried out.

Staff managers should forward the 'Application for ACOT Maternity Leave and Pay' form and form MATB1 to HR as soon as possible. HR will then write to the Employee notifying them of their total maternity leave entitlement and the date on which they are expected to return to work (see template letters). The letter from HR will be copied to the Staff Manager. HR will ensure that Employee is informed of the end date of their maternity leave period within 28 days of receiving their notification.

Employees who subsequently wish to vary the date on which they start their Maternity Leave must inform the Chief Officer in writing at least 28 days before the originally notified date or 28 days before the date on which they now wish to start maternity leave – whichever is earlier. Any potential variations to Maternity Leave should also be forwarded to HR as soon as possible.

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